

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

**IA No.:CAN/1/2024, CAN/2/2024
in
FMA 305 of 2025**

**Shriram General Insurance Company Limited
Versus
Tanuja Begam Sekh & ors.**

For the Appellant : Mr. Rajesh Singh

For the Respondents : Mr. Jayanta Kumar Mondal,
Mr. Sayantan Rakshit.

Heard & Judgment on : 20th March, 2025.

Ananya Bandyopadhyay, J:

1. Both the Learned Advocates representing the appellant/Insurance Company and the respondents/claimants are present.
2. The instant appeal had been filed against the judgment and award dated 29.08.2024 passed by the Learned Additional District Judge, Motor Accident Claims Tribunal, Durgapur, Paschim Bardhaman in M.A.C. Case No. 49 of 2019.

3. An application under Section 166 of the Motor Vehicles Act had been filed due to the death of the victim in an accident which took place on 23.10.2017 at about 18:00 hours with the involvement of the offending vehicle being a 'Truck' bearing registration no. WB-41H/1081 which hit the victim at an exceeding speed rashly and negligently on Pursha D.V.C. More while he was returning from his job on the side of NH-2. The victim sustained severe bleeding injuries and on being shifted to the Pursha Primary Health Centre was declared to have been 'brought dead' by the Doctor.
4. The Learned Advocate representing the appellant/Insurance Company submitted that in the absence of oral and documentary evidence the learned Tribunal had assessed the monthly income of the victim to be Rs.9,100/- which had been excessive.
5. The learned Advocate representing the respondents/claimants submitted, considering various aspects the learned Tribunal had considered the monthly income of the victim to be Rs. 9,100/- and the same should not be interfered with.
6. Since the occurrence of the accident, involvement of the offending vehicle, driving licence, Insurance certificate etc. are not disputed by the learned advocate representing the appellant/insurance company, this Court restricts itself only to the extent of considering the monthly income of the victim as

agitated by both the parties. Considering the fiscal index prevalent in the year 2017 and in absence of corroborative evidence based only on the affidavit of P.W. 1 the monthly income of the victim to be Rs.7,000/- would not be improbable.

7. Considering the observations of the Hon'ble Apex Court in National insurance company Ltd. Vs. Pranay Shetty & Anr¹ and Sarala Verma & Ors. Vs. Delhi Transport Corporation & Anr.², the impugned award of Rs. 10,60,990/- is modified as follows:-

Monthly Income	Rs. 7,000/-
Annual Income	X 12
	Rs. 84,000/-
Add : Future Prospect (10%)	Rs. 8,400/-

	Rs. 92,400/-
Less 1/4 th Personal Expenses	Rs. 23,100/-
	Rs. 69,300/-
Multiplier to be "11"	X 11
	Rs. 7,62,300/-
Add : General damages	Rs. 84,000/-
	Rs. 8,46,300/-

8. The learned Advocate representing the appellant/Insurance Company submits to have deposited a sum of Rs.15,09,389/- as per challan filed by the learned advocate representing the appellant/insurance company.

1 2017(4)TAC 673(S.C)

² (2009) 6 SC 121

9. The Respondents/claimants are entitled to receive the amount of Rs. 8,46,300/- at the rate of 6% per cent per annum from the date of filing of the claim application till the date of actual realization.
10. The office of the learned Registrar General High Court at Calcutta, shall encash the cheques and thereafter disburse the entire awarded amount so deposited in equal proportion to the respondents/claimants as mentioned in the impugned judgment of the Learned Additional District Judge, Motor Accident Claims Tribunal, Durgapur, Paschim Bardhaman in M.A.C. Case No. 49 of 2019 on proof of proper identification of the respondents/claimants subject to payment of ad valorem Court fees and refund the balance amount through a cheque to the Learned Advocate for the Appellant/Insurance Company for the accounts of the insurance company.
11. The interest generated on the sum of money deposited by the appellant/insurance company at the office of the Learned Registrar General, High Court at Calcutta which has already been deposited in the nationalized bank by the office of the Learned Registrar General, High Court at Calcutta is to be apportioned and the sum of interest accrued on the aforesaid amount is to be disbursed in favour of the appellant/insurance company for the accounts of the insurance company.

12. The instant appeal is disposed of accordingly.
13. The pending applications, if any, stands disposed of.
14. Copy of the order be sent to the Department as well as the concerned tribunal as expeditiously as possible.

(Ananya Bandyopadhyay, J.)